IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 11859 of 2004(J)

PETITIONER:

N.K.RAGHAVAN, NEELIKATTU VELI,
NORTH ARYAD P.O., ALAPPUZHA 688 542.

BY ADV. SRI.K.K.SATHEESH

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, MINISTRY OF HOME AFFAIRS, FREEDOM FIGHTER'S DIVISION, LOK NAYAK BHAWAN, KHAN MARKET, NEW DELHI 110 003.

2. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, GENERAL ADMINISTRTION (FFP.A) DEPARTMENT, THIRUVANANTHAPURAM.

BY ADV. SRI.B.N.SHIV SHANKAR, ADDL.CGSC
SRI.P.MURALEEDHARAN, ADDL.CGSC
GOVERNMENT PLEADER ANU SIVARAMAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON 26/06/2007 DELIVERED THE FOLLOWING:

W.P(C).No. 11859/04.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE EXTRACT OF THE CONVICT REGISTER.

P2. COPY OF THE ORDER OF THE COLLECTOR DTD.10.4.73.

P3. COPY OF THE LETTER DTD.4.8.73 BY THE COLLECTOR TO THE Petitioner.

P4. COPY OF THE APPLICATION DTD.30.4.98 FOR SSS PENSION.

P5. COPY OF THE AFFIDAVIT BEFORE CJM COURT, ALAPPUZHA.DTD.28.3.2003.

P6. COPY OF THE COMMUNICATION DTD.14.11.03 BY THE DIST. COLLECTOR, ALAPPUZNA.

P7. COPY OF THE LETTER DTD.7.4.03 BY R1 TO R2.

P8. COPY OF THE REPRESENTATION BEFORE R2 DTD.23.2.2004.

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///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

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W.P.(C).No.11859 of 2004

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Dated this the 26th day of June, 2007

J U D G M E N T

The petitioner claims to be a freedom fighter. He submits that he is receiving State Freedom Fighter's Pension and he has been awarded *Thamrapathra*. He applied for freedom fighter's pension under the Swatantrata Samman Sainik (SSS) Pension scheme. The petitioner approaches this court complaining that his application for the same is not being considered by the respondents. Now the petitioner understands that his claim has been rejected by Ext.R1(a) order of the 2nd respondent produced along with the counter affidavit filed on behalf of the 1st respondent. The reason mentioned in Ext.R1(a) for rejection of the petitioner's claim is that in the SSS pension application, he had claimed only six months and 28 days of

imprisonment whereas in the extract of Convict Register it is seen that the imprisonment period is two years and, hence the genuineness of the claim seems to be doubtful. The learned Government Pleader adds to it by saying that the petitioner has filed his application at a time when the Punnapra-Vayalar struggle was not recognised as part of the freedom struggle for Central pension and therefore, it could not have been considered. But it is an admitted fact that presently the Punnapra-Vayalar struggle also has been recognised as part of the freedom struggle for the purpose of SSS Pension also.

2. I am not convinced by the reason mentioned in Ext.R1(a) for rejection of the petitioner's application. May be in his application the petitioner claimed only six months and 28 days' imprisonment. But the Convict Register is an authentic document maintained by the officers of the 2nd respondent itself, in which imprisonment of the petitioner is mentioned as 2 years. There is

no reason to suspect the genuineness of the Convict Register. That being so, just because the petitioner mentioned in his application only 6 months and 28 days' imprisonment, that does not render the extract of the Convict Register unacceptable. Therefore, I am of opinion that the 2nd respondent ought to have considered the claim of the petitioner on the basis of the extract of the Convict Register and made appropriate recommendation to the 1st respondent for consideration of the petitioner's application for SSS Pension.

3. Regarding the contention of the learned Government Pleader that at the time when the application was made, the Punnapra-Vayalar struggle was not accepted as part of the freedom struggle for the purpose of SSS pension, it need not be considered now since admittedly the same has subsequently been accepted as part of the freedom struggle for the purpose of SSS pension also.

4. In the above circumstances, I direct the

2nd respondent to consider the petitioner's claim afresh and forward its report to the 1st respondent within a period of one month from the date of receipt of a copy of this judgment. The 1st respondent shall, within two months from the date of receipt of the report of the 2nd respondent, consider the application of the petitioner for SSS pension and pass appropriate orders thereon.

Writ petition is disposed of as above.

sdk+ S.SIRI JAGAN, JUDGE